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Headline: COUPLE FACING LIENS ON HOUSE DEAL< PIERREPONT HOMEOWNERS CLAIM CONTRACTOR DIDN'T PAY FOR MATERIALS

Illustration: Color photo #1439 by CHRISTOPHER LENNEY
WATERTOWN DAILY TIMES

Fred and Pat Biggs look up from the basement of their home in Pierrepont. They have had to live in the basement since moving in.

Byline: James R. Donnelly Times Staff Writer

Dateline: CANTON

A Pierrepont couple say state law does little to protect a homeowner who pays to have a home built and then finds out a contractor hasn't paid for the materials used in the project.

That is the problem facing **Frederick E.** and Patricia M. Biggs, whose home is subject to more than \$26,000 in liens filed by suppliers because bills have not been paid by James O'Neil, owner of Construction Management Services, DeKalb Junction. The couple hired Mr. O'Neil to build a custom-designed home on Waterman Hill a few miles southeast of the village of Canton.

Mr. Biggs, an accountant, said he met Mr. O'Neil through his business and decided to hire him for what was expected to be a \$79,995 construction project. It called for Mr. O'Neil's workers to frame the home, hook up its

water, sewage and heating systems and hang drywall in its basement. Other rooms were to be completed by the couple.

But the Biggses said they were not satisfied with the quality of work performed by Mr. O'Neil's employees and, after paying out \$74,370, they stopped paying. That, they said, was when they learned Mr. O'Neil had not paid for materials used in the project.

Mr. O'Neil declined to discuss the dispute. He referred all questions to attorney David R. Garner, Canton.

Mr. Garner said he has discussed the Biggses' complaint with a representative of the state attorney general's office, Watertown, in an effort to settle the dispute without formal legal action.

"I have done this kind of case before. It is emotionally draining, for the counsel, for the homeowner and for the judge," Mr. Garner said. "The only winners in a case like this are the lawyers."

The Biggs home is subject to two mechanics' liens, one for \$16,906.358 filed by Triple A Lumber, Canton, and another filed by Security Supply Corp., Selkirk, for \$9,700.47. The liens, filed in the St. Lawrence County clerk's office, represent money the suppliers say they are owed by Mr. O'Neil for materials delivered to the Biggs property.

Real property cannot be sold unless liens are lifted. If the creditors are not paid, they could foreclose on the property.

Since the dispute arose, Mr. O'Neil has billed the couple for \$28,149.82 for work he claims exceeded work specified in the original agreement.

The Biggses say they have consulted with several lawyers about filing criminal or civil charges against Mr. O'Neil.

"If there was something I could do, I would be more than happy," said St. Lawrence County District Attorney Jerome J. Richards. "But it is almost impossible to prove criminal intent in something like this."

"I feel badly for them," said attorney Charles A. Gardner, Gouverneur, who

declined to take the case. "This was a trust relationship. A handshake relationship that went sour."

"The best way to protect yourself if you are going to spend \$100,000 on a house is hire an engineer or somebody who is going to monitor the project. It is money well spent," Mr. Gardner said.

The house was designed by Potsdam architect Brooks Washburn from a concept credited largely to Mrs. Biggs. But, like most homeowners, the Biggses elected to save the 8 percent fee Mr. Washburn charges to oversee construction.

"We can't get people to buy full service," Mr. Washburn said.

Involving a bank in a construction project also helps avoid problems, since banks will not authorize payments until assuring bills have been paid.

The Biggses said they were shocked to learn state law appears to offer them little protection while allowing materials suppliers with whom they never dealt to file liens against their home. They outlined their dilemma in a letter to Assemblywoman Chloe Ann O'Neil, R-Parishville.

"The point of this is not Jim-bashing," said Mr. Biggs. "I want the law changed to provide some protection to homeowners."

"It is a difficult situation. You have the problem of someone paying for a service, which they did, and someone not paying for the materials. You wouldn't have this if there was a mortgage," said Mrs. O'Neil. "My advice at this point is they need a lawyer."